

KATHRYN E. CAHOY (SBN 298777)
Email: kcahoy@cov.com
COVINGTON & BURLING LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, CA 94306-2112
Telephone: + 1 (650) 632-4700
Facsimile: + 1 (650) 632-4800

*Attorneys for Defendants
Intuitive Surgical, Inc.*

[Additional counsel listed on the signature page]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: DA VINCI SURGICAL ROBOT ANTITRUST LITIGATION	Lead Case No.: 3:21-cv-03825-VC
THIS DOCUMENT RELATES TO: ALL ACTIONS	Judge: The Honorable Vince Chhabria
SURGICAL INSTRUMENT SERVICE COMPANY, INC., Plaintiff, vs. INTUITIVE SURGICAL, INC., Defendant.	Case No. 3:21-cv-03496-VC Judge: The Honorable Vince Chhabria

**JOINT STIPULATION AND [PROPOSED] ORDER TO MODIFY SUMMARY
JUDGMENT BRIEFING SCHEDULE**

WHEREAS, the Court entered a case schedule for the above-captioned actions on August 23, 2021, and a modified case schedule on April 14, 2022, which, among other deadlines, requires motions for summary judgment to be filed by March 23, 2023, oppositions thereto filed by April 20, 2023, and replies by May 11, 2023. *See* ECF 90 in 3:21-cv-03496;

WHEREAS, the named plaintiffs in *In re: da Vinci Surgical Antitrust Litigation* and Surgical Instrument Service Company, Inc. (collectively, “Plaintiffs”) have indicated that they intend to file motions for summary judgment in their respective cases;

WHEREAS, Intuitive intends to file motions for summary judgment in both cases;

WHEREAS, in the event of cross-motions for summary judgment, paragraph 44 of the Court’s Standing Order for Civil Cases requires the parties to file a total of four briefs sequentially and complete all briefing no later than 14 days before the June 8 hearing before the Court on the motions for summary judgment;

WHEREAS, Plaintiffs and Intuitive have agreed, subject to the Court’s approval, to the following briefing schedule for motions for summary judgment:

Event	Proposed Date¹
Plaintiffs’ Opening Summary Judgment Briefs	March 23, 2023
Defendant’s Opening/Opposition Briefs	April 13, 2023
Plaintiffs’ Opposition/Reply Briefs	May 4, 2023
Defendant’s Reply Brief	May 25, 2023

WHEREAS, the parties have further agreed that, in the event Plaintiffs elect not to move for summary judgment, Defendant’s Opening briefs on its motions shall still be due April 13, 2023, and the Opposition and Reply briefs shall be due on the dates set forth above.

¹ These dates do not extend the Court’s April 14, 2022 modified case schedule order (Doc No. 88). In fact, the latter 3 entries shorten the existing briefing schedule.

WHEREAS, the schedule for *Daubert* motions will not be affected by the requested change to the briefing schedule, with such motions filed and briefed on the existing schedule: March 23, 2023 for motions, April 20, 2023 for oppositions, and May 11, 2023 for replies. *See* ECF 90 in 3:21-cv-03496;

NOW THEREFORE, Plaintiffs and Intuitive respectfully request that the Court enter the proposed briefing schedule set forth in the attached Proposed Order,.

DATED: February 16, 2023

COVINGTON & BURLING LLP

By: /s/ Jeffrey Corrigan

By: /s/ Kathryn E. Cahoy
Kathryn E. Cahoy

Jeffrey J. Corrigan (pro hac vice)
Jeffrey L. Spector (pro hac vice)
Icee N. Etheridge (pro hac vice)
SPECTOR ROSEMAN &
KODROFF, P.C.
2001 Market Street, Suite 3420
Philadelphia, PA 19103
Tel: 215-496-0300
Fax: 215-496-6611
Email: jcorrigan@srkattorneys.com
jspector@srkattorneys.com
ietheridge@srkattorneys.com

Gary I. Smith, Jr. (SBN 344865)
Samuel Maida (SBN 333835)
HAUSFELD LLP
600 Montgomery Street, Suite
3200 San Francisco, CA 94111
Tel: 415-633-1908
Fax: 415-358-4980
Email: gsmith@hausfeld.com
smaida@hausfeld.com

Benjamin D. Brown (SBN 202545)
Daniel McCuaig (pro hac vice)
COHEN MILSTEIN SELLERS &
TOLL PLLC
1100 New York Ave., Suite 500

SONYA WINNER (SBN 200348)
Email: swinner@cov.com
ISAAC D. CHAPUT (SBN 326923)
Email: ichaput@cov.com
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, California 94105-2533
Telephone: + 1 (415) 591-6000
Facsimile: + 1 (415) 591-6091

KATHRYN CAHOY (SBN 298777)
Email: kcahoy@cov.com
COVINGTON & BURLING LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, CA 94306-2112
Telephone: + 1 (650) 632-4700
Facsimile: + 1 (650) 632-4800

ANDREW LAZEROW (*Pro Hac Vice*)
Email: alazerow@cov.com
ASHLEY E. BASS (*Pro Hac Vice*)
Email: abass@cov.com
COVINGTON & BURLING LLP
One City Center 850 Tenth Street NW
Washington DC 20001-4956
Telephone: + 1 (202) 662-6000

Washington, DC 20005
Tel: 202-408-4600
Fax: 202-408-4699
Email: bbrown@cohenmilstein.com
dmccuaig@cohenmilstein.com

Brent W. Landau (pro hac vice)
HAUSFELD LLP
325 Chestnut Street, Suite 900
Philadelphia, PA 19106
Tel: 215-985-3270
Fax: 215-985-3271
Email: blandau@hausfeld.com

Manuel J. Dominguez (pro hac vice)
COHEN MILSTEIN SELLERS &
TOLL PLLC
11780 U.S. Highway One, Suite N500
Palm Beach Gardens, FL 33408
Tel: 561-515-2604
Fax: 561-515-1401
Email: jdominguez@cohenmilstein.com

Christopher J. Bateman (pro hac vice)
COHEN MILSTEIN SELLERS & TOLL
PLLC
88 Pine Street, 14th Floor
New York, NY 10005
Tel: 212-838-7797
Fax: 212-838-7745
Email: cbateman@cohenmilstein.com

Michael J. Boni
Joshua D. Snyder (pro hac vice)
John E. Sindoni (pro hac vice)
BONI, ZACK & SNYDER LLC
15 St. Asaphs Road
Bala Cynwyd, PA 19004
Tel: 610-822-0200
Fax: 610-822-0206
Email: mboni@bonizack.com
jsnyder@bonizack.com
jsindoni@bonizack.com

Counsel for the Proposed Class

Facsimile: + 1 (202) 662-6291

ALLEN RUBY (SBN 47109)
allen@allenruby.com
ALLEN RUBY, ATTORNEY AT LAW
15559 Union Ave. #138
Los Gatos, CA 95032
Tel: (408) 477-9690

KAREN HOFFMAN LENT (*Pro Hac Vice*)
Email: karen.lent@skadden.com
MICHAEL H. MENITOVE (*Pro Hac Vice*)
Email: michael.menitove@skadden.com
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
One Manhattan West
New York, NY 10001
Telephone: (212) 735-3000
Facsimile: (212) 735-2040

Attorneys for Defendant Intuitive Surgical Inc.

By: /s/ Joshua V. Van Hoven

JOSHUA V. VAN HOVEN
joshua.vanhoven@hglaw.com
GREGORY J. LUNDELL
greg.lundell@hglaw.com
111 N Market Street, Suite 900
San Jose, California 95113

RICHARD T. MCCAULLEY (*pro hac vice*)
richard.mccaulley@hglaw.com
116 W. Hubbard, Unit 20
Chicago, IL 60654

*Attorneys for Plaintiff Surgical Instrument
Service Company, Inc.*

[PROPOSED] ORDER

It is hereby ordered that the briefing schedule for summary judgment motions shall be modified as reflected below, in the event Plaintiffs move for summary judgment:

Event	Proposed Date
Plaintiffs' Opening Summary Judgment Briefs	March 23, 2023
Defendants' Opening/Opposition Briefs	April 13, 2023
Plaintiffs' Opposition/Reply Briefs	May 4, 2023
Defendants' Reply Brief	May 25, 2023

It is hereby ordered that the briefing schedule for summary judgment motions shall be modified, as reflected below, in the event Plaintiffs do not move for summary judgment:

Event	Proposed Date
Defendants' Opening Briefs	April 13, 2023
Plaintiffs' Opposition Briefs	May 4, 2023
Defendants' Reply Briefs	May 25, 2023

It is so ordered:

Dated: _____, 2023

Hon. Vince Chhabria
United States District Court Judge

FILER'S ATTESTATION

I, Kathryn E. Cahoy, am the ECF User whose ID and password are being used to file this document. I hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1(h)(3), that the concurrence to the filing of this document has been obtained from each signatory hereto.

DATED: February 16, 2023

/s/ Kathryn E. Cahoy
Kathryn E. Cahoy